IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

MFA.No. 556 of 2000()

OPMV.1039/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PATHANAMTHITTA
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APPELLANT/ADDL.9TH RESPONDENT:

UNITED INDIA INSURANCE CO. LTD.,
REP. BY ITS ASST. MANAGER, 3RD PARTY, CLAIMS CELL,
IV-VETTUKATTIL BUILDING, JOSE JUNCTION, KOCHI – 16.

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL

RESPONDENTS/PETITIONER 1 TO 6 AND RESPONDENTS 1 TO 5 AND 7 AND 8:

1.SARAMMA GEORGE PHILIP, THERUVAL HOUSE,
(INCHIVILAYIL HOUSE), CHANDANAPPALLY MURI,
ANGADICAL VILLAGE.

2.SANTHI MATHEW, KYMALAZHIKATH HOUSE, KALANJOOR P.O.,
PATHANAPURAM.

3.ANNAMMA PHILIP, AYYAMPLACKAL, VALLICODE P.O.

4.SUKU GEORGE PHILIP, THERUVIL HOUSE,
CHANDANAPPALLY MURI, ANGADICKAL VILLAGE.

***5.P.GEORGE, THERUVIL HOUSE OF DO. DO. (REMOVED)**

***6.THANKAMMA GEORGE, W/O.P.GEORGE RESIDING**
DO. DO. (REMOVED)

7.M.JALALUDEEN,KUNNIL PUTHEN VEEDU, ARIYANCAVU.

8.VARGHESE, VENGAMOOTTIL HOUSE, KUMBAZHA MURI
MYLAPRA VILLAGE.

****9.PRASAD,VETTUVELIL VEEDU,VETTOOR MURI,**
MALLASSERI, PRAMADOM VILLAGE (DELETED)

**10.M.GEORGE,M/S.POLSON WOOD INDUSTRIES,
COLLEGE JUNCTION, PUNALUR.**

**11.KRISHNANKUTTY PILLAI, MAMPUZHAYIL VEEDU,
MULLIKKALA, THEVALAKKARA.**

**12.SATHIS JACOB,VADAKKEKARA VEETTIL,CHANDANAPPALLY
MURI, ANGADICAL VILLAGE.**

**13.THE BRANCH MANAGER, NEW INDIA ASSURANCE CO. LTD.,
PATHANAMTHITTA.**

*** THE NAMES OF R5 AND R6 ARE REMOVED FROM THE PARTY ARRAY AT THE RISK OF THE APPELLANT VIDE ORDER DT.7.4.2004 ON I.A.1079/04.**

**** 9TH RESPONDENT IS DELETED FROM THE PARTY ARRAY AT THE RISK OF THE APPELLANT VIDE ORDER DT.2.11.2007 ON I.A.2431/2007.**

**** THE ORDER DATED 2.11.2007 IN I.A.2431/07 DELETING THE 9TH RESPONDENT FROM THE PARTY ARRAY IS RECALLED AND THE 9TH RESPONDENT IS BROUGHT BACK TO THE PARTY ARRAY VIDE ORDER DT.19.11.2007 ON I.A.2709/07.**

**BY ADV. SRI.ANCHAL C.VIJAYAN
SRI.JOHN JOSEPH
SRI.K.K.GOPINATHAN NAIR
DR.K.P.SATHEESAN
SRI.A.R.GEORGE**

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.T.SANKARAN, JJ.

M.F.A.NO.556 OF 2000 (D)

Dated this the 3rd day of December, 2007

J U D G M E N T

KOSHY,J.

Deceased while travelling as a pillion rider in a scooter bearing registration No.KL-3/A 4489 driven by the 7th respondent met with an accident. When they reached the place of occurrence, a goods vehicle lorry bearing registration No.KRQ/8647 driven by the 5th respondent collided with a Jeep bearing registration No.KEK/2293 driven by the 3rd respondent when came in excessive speed and tried to overtake the lorry. The lorry hit the jeep and jeep swerved to the right and hit the scooter and thus accident occurred. Jeep and lorry were insured by the appellant Insurance company. Tribunal found that drivers of the jeep and lorry are equally responsible and directed the entire compensation to be paid by the appellant Insurance company (Both Insurance companies are one at the same). The Insurance company which insured the jeep filed

this appeal contending that on the date of accident there was no valid insurance on the jeep. The accident occurred on 9.2.1996. Earlier insurance coverage of the jeep as over by 30.1.1996 and it was renewed only on 10.2.1996. Since the accident occurred on 9.2.1996, Insurance company of the jeep is not liable to pay the compensation. In this connection we refer to the decision in ***National Insurance Co. Ltd. v. Sobina Iakai (Smt) and others ((2007) 7 SCC 786).*** Therefore 50% of the compensation amount awarded is liable to be paid by the owner (R1 before the tribunal) and driver of the jeep (R3 before the tribunal). Insurance company is relieved of the liability to the above extent. Appeal is accordingly allowed.

J.B.KOSHY, JUDGE

K.T.SANKARAN, JUDGE

prp

J.B.KOSHY & K.T.SANKARAN, JJ.

M.F.A.NO.556 OF 2000 (D)

J U D G M E N T

3rd December, 2007